



California Fair Political Practices Commission

June 12, 1986

George H. Eiser, III
City Attorney
1243 National City Blvd.
National City, CA 92050-4397

Re: Your Request for Advice
Our File No. A-86-178

Dear Mr. Eiser:

Thank you for your letter requesting advice on behalf of National City Councilman Michael Dalla, regarding his duties under the conflict of interest provisions of the Political Reform Act.^{1/}

QUESTION

Is Councilman Dalla prohibited by the Political Reform Act from participating in any decisions regarding a proposed police facility site by virtue of the fact that he owns real property near the site?

CONCLUSION

Councilman Dalla is prohibited from participating in any decision regarding the police facility if it is reasonably foreseeable that his real property interest would be increased or decreased by \$1,000 or more as a result of the decision.

ANALYSIS

The City of National City is currently in the process of selecting a site for a new police facility. A proposed site has been selected at the southwest corner of National City

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

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Boulevard and Plaza Boulevard, two major thoroughfares. The site is zoned for and improved with commercial uses.

It is currently contemplated that a two-story police building with an area of approximately 36,000 square feet will be built on the site. The cost of the building is estimated to be \$3,000,000. The portion of the site not occupied by the police building will be improved with a parking lot for public and employee parking.

Councilman Dalla owns a single-family home, in which he resides, located at 1020 "C" Avenue, National City. The property is located on a different street than the police facility and is approximately 600 to 800 feet from the proposed site, depending on whether the distance is measured in a straight line or by traversing the streets. The fair market value of this residence is estimated at \$50,000.

The Political Reform Act requires that public officials disqualify themselves from making or in any way participating in any decision in which they have a financial interest. Section 87100. An official has a financial interest in a decision if the decision will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more. Section 87103(b).

In the instant case, Councilman Dalla owns real property with an estimated fair market value of \$50,000.

Commission regulation 2 Cal. Adm. Code Section 18702(b)(2)(B) provides that the effect of a decision on an interest in real property will be considered material if the effect of the decision will be to increase or decrease:

(B) The fair market value of the property by the lesser of:

1. Ten thousand dollars (\$10,000); or
2. One half of one percent if the effect is one thousand dollars (\$1,000) or more.

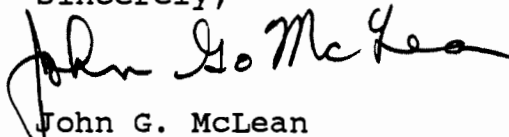
2 Cal. Adm. Code Section
18702(b)(2)(B).

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Thus, to be material, the reasonably foreseeable effect of the decision regarding the police facility must be to increase or decrease the fair market value of Councilman Dalla's residence by \$1,000 or more. The change in value is a factual determination which must be made based upon substantially more facts than are available to us here. In making this determination you should consider various factors including but not limited to the following: whether the neighborhood in which the residence is located is a high-crime area that would benefit from the presence of a police facility, thus increasing the value of the surrounding property; whether the general activity of the police station, such as increased traffic, police sirens, etc., would devalue the surrounding property. If you conclude that none of these factors is present or that any such factors would not alter the value of his property by at least \$1,000, then he may participate in the decision.

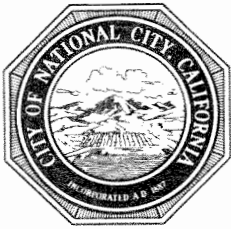
If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

A handwritten signature in dark ink, appearing to read "John G. McLean". The signature is fluid and cursive, with the first name "John" being more prominent and the last name "McLean" following in a similar style.

John G. McLean
Counsel
Legal Division

JGM:KT:plh



City of National City
Office of the City Attorney

1243 National City Blvd., National City, Ca. 92050-4397 (619) 477-1181
George H. Eiser, III—City Attorney

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May 19, 1986

John G. McLean, Esq.
Legal Division
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804

Re: Request for Legal Advice; Councilman Michael Dalla

Dear Mr. McLean:

On behalf of National City Councilman Michael Dalla, written advice is hereby requested pursuant to Government Code Section 83114(b).

FACTUAL BACKGROUND

The City of National City is considering the construction of a new police facility. The City is now in the process of site selection. At a workshop meeting held on April 22, 1986, the City Council selected a site located at the Southeast corner of National City Boulevard and Plaza Boulevard, two major thoroughfares in National City. The site (depicted on the attached map) is approximately 65,000 square feet in area, is zoned for and improved with commercial uses, and is privately-owned. The site would have to be acquired by the City through purchase or eminent domain. Acquisition cost is estimated to be \$1,090,000.00.

It is currently contemplated that a two-story police building with an area of approximately 36,000 square feet will be built on the site. The cost of the building is estimated to be \$3,000,000.00. The portion of the site not occupied by the police building will be improved with a parking lot for public and employee parking.

Councilman Michael Dalla owns a single-family home, in which he resides, located at 1020 "C" Avenue, National City. This residence, depicted on the attached map, is located on a different street than the police facility site, and is approximately 600 feet from the police facility site if the distance is traveled in a straight line. The distance is approximately 795 feet if measured by traversing the streets. The fair market value of the residence is estimated to be \$50,000.00.

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ISSUE PRESENTED

The issue to be resolved is whether Councilman Dalla is precluded from participating in any decisions regarding the proposed police facility site, due to his ownership of a residence at 1020 "C" Avenue.

In analyzing this issue, it appears that under Section 18702(b)(2) of the California Administrative Code, and under Advice Letter No. A-86-022, any decision on the police facility would not have the requisite financial effect on Councilman Dalla's residence so as to preclude his participation in those decisions.

Your assistance in providing a written advice letter on this issue would be appreciated.

Very truly yours,

A handwritten signature in dark ink, appearing to read "George H. Eiser, III". The signature is stylized with a large initial "G" and a prominent "E".

GEORGE H. EISER, III
City Attorney

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California Fair Political Practices Commission

May 23, 1986

George H. Eiser, III
City Attorney
1243 National City Blvd.
National City, CA 92050-4397

Re: 86-178

Dear Mr. Eiser:

Your letter requesting advice under the Political Reform Act has been received on May 22, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

John G. McLean
Counsel
Legal Division

JGM:plh